

REMARKS

In response to a Restriction Requirement (Paper No. 20050725) mailed August 9, 2005, Applicant is filing the following 37 C.F.R. 1.143 response and preliminary amendment. Upon entry of this amendment, claims 1-11 and 13-22 will be pending. Applicant has canceled claim 12 without prejudice or disclaimer as to its subject matter by this preliminary amendment and has amended claims 1, 2, 5-11 and 13-20 by this preliminary amendment.

The Examiner is restricting the claims as follows:

Group I, claims 1-6 and 17-22 drawn to a filter and allegedly classified in class 313, subclass 110; and

Group II, claims 7-16 drawn to a method of making the filter and allegedly classified in class 430, subclass 7.

Applicant hereby elects Group I with traverse.

In Paper No. 20050725, the Examiner indicated that method claims 7-16 are classified in class 430, subclass 7. Applicant has consulted the Manual of Patent Classification and found that class 430 pertains to RADIATION IMAGERY CHEMISTRY: PROCESS, COMPOSITION, OR PRODUCT THEREOF, and subclass 7 in this class pertains to *RADIATION MODIFYING*

PRODUCT OR PROCESS OF MAKING, indent “Screen other than for cathode-ray tube” and second indent “Color”. Applicant submits that clearly on its face, the Manual of Patent Classification intends that class 430, subclass 7 to include both apparatus and method of making inventions and claims as is evidenced by the words “radiation modifying product or process of making”. Because Class 430, subclass 7 is for both apparatus and method of making, Applicant submits that the present restriction requirement of Paper No. 20050725 is not only unnecessary, but is also obstructionistic.

Applicant further consulted the issued patents found in class 430, subclass 7 and found numerous issued patents contain both apparatus claims defining the structure of the filter and claims drawn to a method of making the filter. For example, USPs 6,861,184, 6,815,125, 6,322,936, 6,630,274, and 6,740,457 are found in class 430, subclass 7 and contain both method of making claims and apparatus claims for a filter for a display. Applicant submits that this is only a very partial list as the number of patents in class 430, subclass 7 that contain both apparatus claims for a filter and method of making claims are too numerous to produce a complete list at this time. Because of the presence of these patents in class 430, subclass 7, Applicant again submits that the present restriction requirement of Paper No. 20050725 is unnecessary, discriminatory and obstructionistic. Therefore, Applicant traverses the restriction requirement of Paper No. 20050725.

Applicant also submits that MPEP 806.03 states that where claims of a patent application

are drawn to a single embodiment, a restriction requirement should never be required. In Applicant's patent application, Applicant submits that all of Applicant's claims, before being amended, pertain to the same embodiment, and thus should not be restricted as was done in Paper No. 20050725. For these reasons, Applicant submits that the restriction requirement of Paper No. 20050725 must be held improper.

In this amendment, Applicant is converting the method claims 7-16 into apparatus claims with product-by-process limitations. Upon entry of this amendment, there will no longer be any non-elected claims. Claims 7-16 will instead serve as linking claims. Entry of and favorable examination of these claims is respectfully requested.

In view of the foregoing amendments and remarks, this application is deemed to be in condition for examination on the merits. Should any questions arise during the examination, the Examiner is respectfully requested to telephone Applicant's attorney.

No fee is incurred by this Preliminary Amendment.

Respectfully submitted,



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Folio: P56982
Date: 9/8/2005
I.D.: REB/ML